

REMARKS / ARGUMENTS

The present application includes pending claims 1-45, of which claims 1-27 have been rejected. Claims 28-45 are new claims. Claims 1, 3, 7-10, 12, and 16-27 have been amended. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,393,474, issued to Eichert, et al. (hereinafter, Eichert), in view of U.S. Patent Application Publication No. 2002/0069278, issued to Forslow (hereinafter, Forslow). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

See MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination," and that "although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a *suggestion or motivation in the reference to do so*'" (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP § 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...," citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Eichert and Forslow Does Not Render Claims 1-27 Unpatentable

The Applicant turns to the rejection of claims 1-27 as being unpatentable over Eichert in view of Forslow. The Applicant notes that the proposed

combination of Eichert and Forslow forms the basis for all of the pending rejections.

A. Independent Claim 1

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Eichert and Forslow does not disclose or suggest at least the limitation of "**associating said at least one policy only with a particular one of said access point groups,**" as recited by the Applicant in independent claim 1 (emphasis added). The Final Office Action states the following:

Eichert et al. discloses a method for hardware acceleration in a wired local area network, the method comprising:

associating said at least one policy with a particular one of said access point groups (policy is distributed to the different groups of network devices and end systems - Figures 1 and 3 - Column 4, Lines 1-18; Column 8, Lines 31-42 & 56-63);

See the Final Office Action at page 3. Initially, the Applicant points out that even though Eichert discloses a plurality of network devices in Figure 1, **Eichert does not disclose or suggest a "plurality of access point groups", where, obviously, an access point group will include a plurality of devices.** The Applicant further points out that **Figures 1 and 3 of Eichert do not disclose or suggest that a policy is associated only with a particular access point group,** as recited in Applicant's claim 1. For example, Figure 1 of Eichert illustrates a schematic diagram of a general network and its connected network devices. See

Eichert, col. 6, lines 47-48. Furthermore, in order to implement the system policy, Eichert discloses that a network manager uses a single management station, such as the management station 100 of Figure 1, in order to specify policy for a network. See *id.* at Figure 1 and col. 2, lines 46-47.

Figure 3 of Eichert describes in greater detail how the management station 100 handles policies. For example, Eichert discloses that **an active packet is created based on the input rules describing the policy**. See *id.* at col. 8, lines 31-55 and Figure 3. After the active packet is created, encoded, and signed, the **packet (or an instruction to retrieve the packet) is transferred to a network device**. See *id.* Figure 3, step 370. In other words, Eichert handles policy processing by using active packets which are communicated by the management station to a network device. Eichert does not disclose a plurality of access point groups and associating policy with a particular one of the access point groups, as recited in Applicant's claim 1.

To summarize, Eichert discloses that **a policy is created for the entire network**. See Eichert at col. 2, lines 47-48; col. 3, lines 41-43. In other words, **the policy is associated with all of the network devices** of Eichert's network. Even if the created policy is distributed to not one but a plurality of enforcement devices, the fact remains that the distributed policy is the same for the entire network. Since Appellant's claim 1 recites a plurality of access point groups, this means that "a particular one of said access point groups" encompasses less than

the entire number of network devices. In other words, "**associating said at least one policy only with a particular one of said access point groups**" results in **associating the policy only with a particular group of access points, not with all network devices**, as disclosed by Eichert. Forslow does not overcome this deficiency of Eichert.

As shown above, neither Eichert nor Forslow teach or suggest "associating said at least one policy only with a particular one of said access point groups," as recited by the Applicant in independent claim 1. Accordingly, the proposed combination of Eichert and Forslow does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 10 and 19 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 10 and 19 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-9, 11-18 and 20-27

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 10 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Eichert in view of Forslow has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-9, 11-18 and 20-27 depend from independent

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claims 1, 10 and 19, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-9, 11-18 and 20-27.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-27 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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